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**UNITED STATES INTELLIGENCE BOARD
SECURITY COMMITTEE**

**MEMORANDUM FOR: Executive Secretary
United States Intelligence Board**

**SUBJECT : Thirteenth Annual Report of the
Security Committee**

There is attached for the consideration of the Board the
Thirteenth Annual Report of the Security Committee. This report
covers the activities of the Security Committee from 1 July 1971
through 30 June 1972.

**Howard J. Osborn
Chairman**

**Attachment
IBSEC-AR/13**

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UNITED STATES INTELLIGENCE BOARD
SECURITY COMMITTEE

Thirteenth Annual Report

I. AUTHORIZATION

During the reporting period the USIB Security Committee operated under DCID No. 1/11 (New Series) effective 23 April 1965.

II. PERIOD COVERED

This report covers activities during the period 1 July 1971 through 30 June 1972.

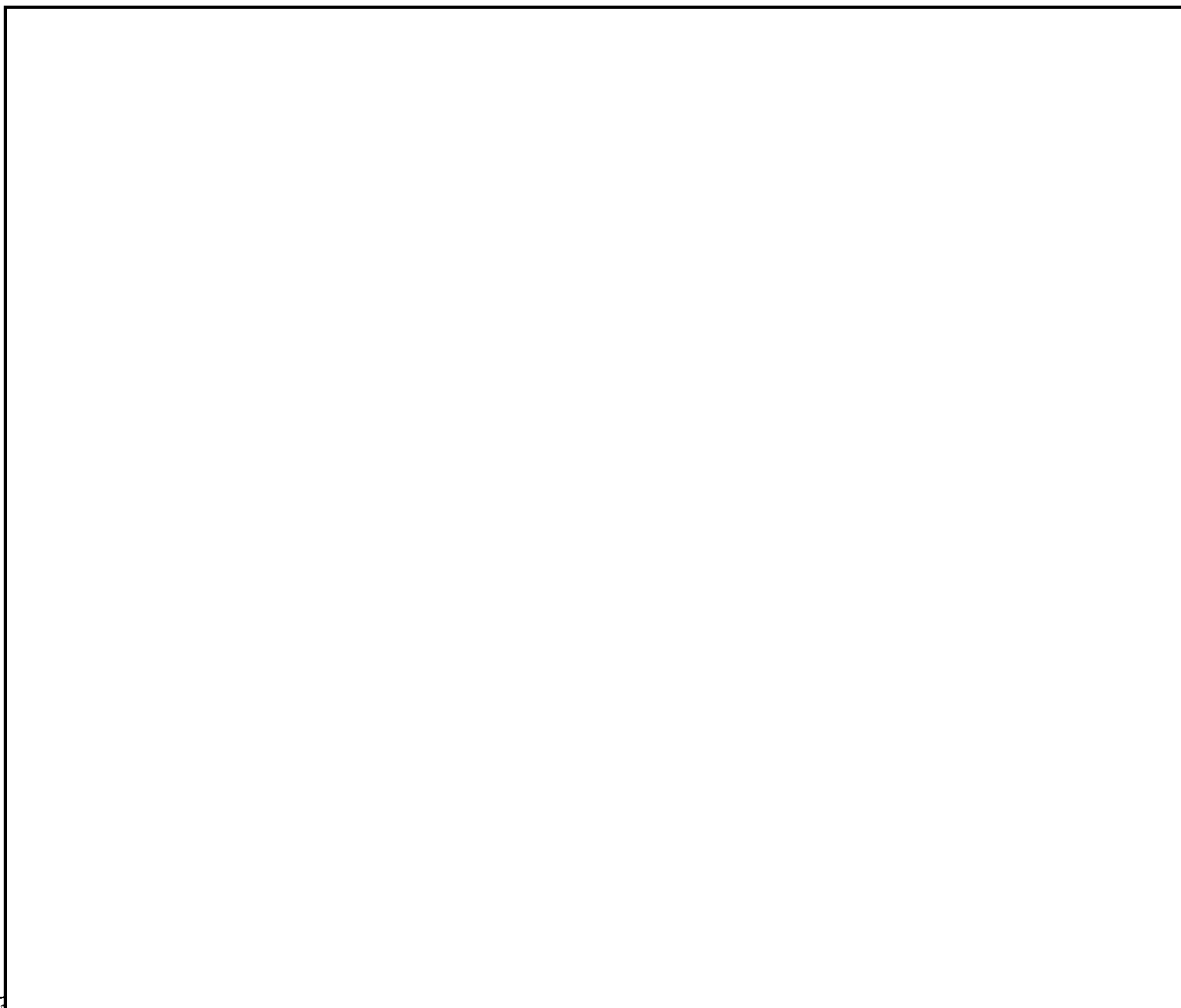
III. OBSERVATIONS

As reported last year by the Chairman, unauthorized disclosures in the press again continued unabated.// The serious concern of the intelligence community which led to the formation of the "Quick Reaction Working Group" in August 1970 for the timely investigation of numerous "leaks" of intelligence information was

supplemented by the origination of the "Unauthorized Disclosures Centralized Data Base" in October 1971. Although this data base is being handled by the Agency, the Chairman envisioned the system as being essentially a service of common concern for the community and, in particular, for the Security Committee. The primary purpose of the data base, which provides a resume of the salient factors involved in each unauthorized disclosure investigated by CIA, is to provide quick retrieval. This quick retrieval concept resulted from past White House requirements for a crash study of leaks of intelligence information to the press. Currently, the data is being put into machine language, utilizing IBM cards, which can readily be used in the event that a computerized program becomes available for future retrieval of leak data. Dating back to 1958, the data base presently includes 263 reports of unauthorized disclosures. //

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IV. ACTIVITIES

A. Guidelines for ADP Disaster Prevention and Contingency Back-up Planning

A significant activity effected through the Security Committee originated with the Computer Security Subcommittee (CSS) in co-sponsorship with the Intelligence Information Handling Committee in the development of Guidelines for ADP Disaster Prevention and

Contingency Back-up Planning for the intelligence community, which were promulgated on 4 April 1972.

B. Sanitization Procedures for Magnetic Storage Media

During the second half of the fiscal year, the Computer Security Subcommittee devoted considerable effort to the development of sanitization procedures for magnetic storage media. The initial draft procedures were provided by the National Security Agency on the basis of extensive research; the Subcommittee adapted these draft procedures and is preparing their promulgation as USIB policy to solve traditional problems involving the retrievability of data from computer storage devices, such as tapes, drums, and disc packs.

C. Uniform Physical Security Standards for Compartmented Intelligence

The final report of the Committee Working Group on Uniform Physical Security Standards for Compartmented Intelligence was received by the Security Committee on 30 November 1971. Promulgation within the Committee resulted in over one hundred changes or recommendations, most of which suggested minor changes in the report. However, several recommendations were substantive and controversial. Currently, the Working Group is finalizing a redraft

of the report. Controversial provisions which do not lend themselves to resolution will be outlined for the Committee in the form of a minority report.

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E. Lecture and Demonstrations

At the request of the Chairman of the Committee, Mr. Lawrence R. Houston, General Counsel, CIA, briefed the members on the civil litigation involving Victor L. Marchetti, a former CIA employee. His presentation emphasized the use of CIA secrecy agreements as a basis for injunction proceedings.

Mr. Houston reported that in March 1972 CIA received a copy of an article written by Mr. Marchetti which he had submitted to a national periodical for publication. The article included classified information which had never before been made public and which could have been known to Mr. Marchetti only by reason of his Agency employment. It was accompanied by the outline of a book which Mr. Marchetti proposed to write as a factual nonfiction criticism of the Agency. The book outline also proposed to discuss classified information. On careful analysis, it became clear that the publication of

this classified information would have serious and immediate impact on intelligence sources and methods and international relations. It was obvious that efforts had to be made to prevent these revelations, particularly in view of the Director's (CIA) statutory responsibility to protect intelligence sources and methods from unauthorized disclosure.]

Because criminal prosecution comes after the event, it would fail to protect the information involved. Court action to compel Mr. Marchetti to comply with his contractual undertaking to protect classified information, therefore, was deemed more appropriate. The Department of Justice agreed and prepared a case seeking a Federal court injunction to enforce the contractual undertaking. For such action to be effective, the Department of Justice felt it would be necessary to obtain court action before notification to Mr. Marchetti. The Federal Rules of Procedure provide for doing this through a temporary restraining order. The Judge signed an order on 18 April 1972 which had been submitted by the Department of Justice. A sealed exhibit was also submitted which described the nature of the damage which would be done by publication of the magazine article. The order, which was good for only ten days, was served on Mr. Marchetti on 18 April 1972 and the Judge set the time for a hearing on the preliminary

injunction for 23 April 1972. This gave Mr. Marchetti time to obtain legal advice and prepare his defense. Such a hearing was in open court except for the treatment of the sealed exhibit, which was considered in the privacy of the Judge's chambers.

A hearing was held before Judge Albert V. Bryan, Jr., in the United States District Court, Alexandria, Virginia, on 15 May 1972 as a basis for determining whether a preliminary injunction and a permanent injunction should replace the temporary restraining order. Two witnesses appeared for the Government, Mr. Howard J. Osborn, Director of Security, CIA, and Mr. Thomas H. Karamessines, Deputy Director for Plans, CIA.

[The Director of Security testified concerning Mr. Marchetti's appearances on radio and TV subsequent to the publication of his novel, The Rope Dancer. Mr. Osborn identified specific items mentioned by Mr. Marchetti in those appearances which were classified. The purpose of this testimony was to show a course of action on the part of Mr. Marchetti indicating a willingness to discuss information pertaining to the Agency without prior clearance, but this testimony was for this purpose only and was not the information on which the Government relied in requesting the injunction. Such reliance was placed on the affidavit of Mr. Karamessines which described the immediate impact

on intelligence sources and methods and international relations which would result from the publication of Mr. Marchetti's article, "Twilight of the Spooks." This had been submitted by Mr. Marchetti's own admission to six publishers as well as Esquire without clearance by the Agency. Mr. Karamessines testified in closed court in further development of the argument that grave damage would be done by such publication.

The reason for presenting this evidence arose out of the fact that the normal remedy for breach of contract is an award of monetary damages. Mr. Karamessines' evidence was designed to demonstrate that financial compensation was completely inadequate and justified the unusual remedy of equitable relief through an injunction.

Defense counsel tried to cross-examine both Mr. Osborn and Mr. Karamessines to demonstrate that the classifications were erroneous and the damage which would be done by the article submitted for publication was not as serious as asserted by Mr. Karamessines. The Judge refused to permit questioning on either point and his ruling, therefore, effectively prohibited the defense from calling witnesses they said were available who would attack the validity of the classification and the assertions of damage.

Defense counsel put Mr. Marchetti on the stand as the only defense witness. He made a statement saying his purpose in talking and writing about intelligence was to criticize certain aspects of U. S. Government intelligence activities as he felt from his employment he was in a position to talk authoritatively on the subject. On cross-examination he admitted signing the secrecy agreements, that some of the information he had used was obtained while he was employed by CIA, and that he had not submitted to the Agency his published novel nor the article which he had given to the various publishers.

At the end of the hearing, Judge Bryan issued a preliminary injunction giving defense time to furnish certain information they wanted to get into the record for appeal. On 19 May Judge Bryan issued a permanent injunction accepting the Government's theory that Mr. Marchetti had contracted not to publish on the subject of intelligence without clearance with the Agency as to classified information. In the event Mr. Marchetti did not comply, he could be held in contempt of court and fined or imprisoned. If he complied and submitted his writings to the Agency, only classified information therein could be prohibited and he was free to publish whatever criticism he wished subject to that restriction.

A Marchetti appeal in the Appellate Court for the Fourth Circuit Court of Appeals is currently pending.

At the end of Mr. Houston's presentation, a discussion ensued between Mr. Houston and the members in which the following points were made:

(1) that the CIA secrecy agreements which were signed by Mr. Marchetti were considered security classified only after they had been signed;

(2) that the security classification was necessary because of CIA's unique involvement with covert operations in which the future utility of the employee is unknown at the time of signature;

(3) that the security classification of the secrecy agreements which Mr. Marchetti signed does not affect the utility of the document should such a document or its approximation be used by other agencies and departments of the intelligence community;

(4) that presently the qualification to pass judgment on the classification of a document rests in the Executive Branch and not the Judicial Branch of Government.